

CITY OF BOULDER, COLORADO

Office of the City Attorney
Municipal Building
1777 Broadway
Post Office Box 791
Boulder, Colorado 80306
Telephone (303) 441-3020
Facsimile (303) 441-3859



If you believe that the City of Boulder (or any of its employees) has negligently injured you or damaged your property, and you wish to be considered for reimbursement, the law requires that you file a written *notice of claim* with the Boulder City Attorney at the following address:

**City Attorney
Municipal Building
Broadway & Canyon
P. O. Box 791
Boulder, Colorado 80306**

A *notice of claim* may be filed in person by giving it to the City Attorney's secretary during working hours or by sending it by certified mail to the City Attorney's Office.

You cannot sue the City unless you file a *notice of claim* within 180 days of the date of the incident in which you claim to have been injured.

A *notice of claim* must contain the following information:

1. The name and address of the person making the claim and the name and address of that person's attorney, if any. It is also suggested that a contact phone number be given.
2. A concise statement of the factual basis of the claim, including the *DATE*, *TIME*, *PLACE*, and *CIRCUMSTANCES* of the act, omission, or event which is the basis of the claim.
3. The name and address of any public employee involved, if known. (Please indicate if you believe the employee was personally responsible for the damage or merely knows about the circumstances.)
4. A concise statement of the nature and extent of damages claimed to have been suffered.
5. A statement of the amount of monetary damages being requested. Copies of bills establishing costs incurred or at least two estimates relating to such damages make it much easier to favorably evaluate a claim.

If you file a *notice of claim*, the City Attorney and its agents will initiate an investigation. If that investigation shows that the City is at fault for your damages, and the City is not protected by governmental immunity, you will be offered reimbursement.

Please understand that even where reimbursement is offered, the City normally pays only for physical damage. Intangible losses such as those based upon personal inconvenience or missed work opportunities are generally not reimbursed. Also, in property damage situations, calculation of loss is based upon the fair market value of damaged items — discounted for depreciation. The City does not pay full replacement value for damaged property. That is an insurance, not a damages, remedy.

The following are examples of factors that may be considered in deciding whether or not the City will pay for damages.

If your claim stems from a sewage backup, you should keep the following facts in mind:

- Within twenty-four hours of a notice of claim, the City will attempt to determine where the blockage is located and whether it is due to the City's negligence or some other cause. The City will only reimburse claims when it is negligent.
- If the blockage was in the portion of the sewer line that is within the boundaries of your property, the City is not liable for damages.
- If the cause of the backup was a blockage in the main sewer line, the City may be liable for damages. Sometimes, blockages occur which are not really the City's fault. For example, blockages are sometimes caused by grease build-up, tree root interference and other causes despite the best efforts of the City to maintain sewer flow.

If your claim stems from damages suffered in connection with a pothole, you should keep the following facts in mind:

- Courts have ruled on what is considered a reasonable amount of time within which to expect a pothole to be fixed following notice to the governing body that there is a problem.
- Only in the most unusual circumstances does the City fail to respond to a pothole complaint within a reasonable time after receipt of such a complaint.
- If the City had no knowledge that a pothole existed and could not reasonably have been expected to know of its existence, then the City is probably not liable.

If you feel that your property has been damaged, you may want to consider contacting your own insurance agent regarding coverage. You may obtain a settlement from your insurance company. Then, if your insurance company believes that the City is liable, it will come to the City for reimbursement. If it is later decided that the City is responsible, the City will reimburse your insurance company for any money it advanced, and either the City or your insurance company will refund your deductible to you.

I will send all information I receive from you to the City's insurance adjusters who investigate these claims for the City. Those adjusters may contact you about your claim. However, no matter what the adjusters decide, you will be precluded from suing the City unless you file a *written notice of claim* within 180 days of the incident about which you have a complaint.

It is the practice of this office to attempt to make a determination of liability within a few weeks of the receipt of a claim. When, because of extenuating circumstances, we cannot respond to a claim within a few weeks, we still try to respond as quickly as possible.

I hope this letter helps you to understand your rights, responsibilities and options with reference to any claim for damages against the City which you may be considering.

Sincerely yours,

Helen Gavin
Risk Manager/Assistant to the City Attorney